IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 488 of 2005

Between:

M/s.S.C. Johnson Products Private Limited, Miyapur,

Hyderabad, rep. by its Authorised Officer,
Mr. Joseph Vinod Kumar.

..... PETITIONER

AND

1. The Commercial Tax Officer, Hydernagar Circle, Hyderabad.

2. The Appellate Deputy Commissioner (CT),

Hyderabad Rural Division, Hyderabad.

3. The Additional Commissioner (CT), Legal, A.P.,

Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction declaring the action of the 1st respondent in taking coercive steps to recover the disputed tax during pendency of stay petition before the 3rd respondent as arbitrary and unjustified and consequently restrain the 1st respondent from taking any coercive steps for collection of balance disputed tax of Rs.11,34,078/- for the assessment year 2001-02 pending disposal of the appeal before the 2ndrespondent and pass such other order or orders as the Honourable Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondents: MR.K.RAJI REDDY,

SPL.SC FOR COMMERCIAL TAXES

The Court made the following at the admission stage :

WRIT PETITION NO.488 OF 2005

O R D E R

(Per Sri Justice M.H.S.Ansari)

Heard learned counsel for respective parties.

An application has been filed for receiving additional material papers. Let the same be taken on record.

The petitioner has questioned the action of the 1st respondent in taking coercive steps to recover the disputed tax during pendency of the stay petition filed before the 3rd respondent pending disposal of the appeal filed by the petitioner before the 2nd respondent-Appellate Deputy Commissioner (CT).

At the time the writ petition was filed, 3rd respondent had not disposed of the stay petition filed before it. However, when the matter was moved before Court, it was represented that the learned 3rd respondent has since passed an order dated 15.01.2005 and it was received by the petitioner's counsel on 24.01.2005 refusing to grant stay of collection of disputed tax till the disposal of the appeal, pending before the 2nd respondent, the said order has been filed as additional material papers and prayer is made for staying the collection of the disputed tax pending disposal of the appeal before the 2nd respondent.

We are of the view that interest of justice would be served if the petitioner is directed to deposit 50% of the disputed tax giving credit to the amounts, if any, paid by the petitioner within four weeks from date hereof, pending disposal of the appeal before the 2nd respondent.

If the petitioner complies with the said condition of depositing the said 50% of the disputed tax within the time stipulated above, after giving credit to the amounts already deposited by the petitioner, 2nd respondent shall hear and dispose of the appeal pending before it without insisting upon payment of balance disputed tax.

With the direction as above, writ petition stands disposed of. No order as to costs.

JUSTICE M.H.S.ANSARI

JUSTICE T.CH.SURYA RAO

28th January, 2005

PGS

To

1. The Commercial Tax Officer, Hydernagar Circle, Hyderabad.
2. The Appellate Deputy Commissioner (CT),

Hyderabad Rural Division, Hyderabad.

3. The Additional Commissioner (CT), Legal, A.P.,

Nampally, Hyderabad.

4. 2 CD copies.

THE HONOURABLE SRI JUSTICE

M.H.S.ANSARI

AND

THE HONOURABLE SRI JUSTICE

T.CH.SURYA RAO

WRIT PETITION NO.488 OF 2005

(Per Sri Justice M.H.S.Ansari)

28th January, 2005